

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Joseph A. Basile, Jr., et ux)
 Dist. 4, Map 147E, Group A, Control Map 147C,) Sumner County
 Parcel 28.00, S.I. 000)
 Residential Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$112,500 | \$543,300 | \$655,800 | \$163,950 |

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 6, 2007 in Gallatin, Tennessee. In attendance at the hearing were Joseph A. Basile, Jr., the appellant, and Sumner County Property Assessor's representative Fred Hardcastle.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 852 Plantation Blvd. in Gallatin, Tennessee. The taxpayer purchased subject property on January 18, 2006 for \$527,307.50.

I. Jurisdiction

The threshold issue in this appeal involves jurisdiction. This issue arises from the fact that the disputed appraisal was not appealed to the Sumner County Board of Equalization. Instead, the taxpayer filed a direct appeal with the State Board of Equalization on November 8, 2006 after receiving the tax bill.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

Associated Pipeline Contractors, Inc., Williamson County, Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). See also *John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Sumner County Board of Equalization.

Mr. Basile testified that he was unaware of the assessment change notice because it was sent to the owner of record on January 1, 2006, an out-of-state home builder. According to Mr. Basile, he first became aware of the disputed appraisal when tax bills were issued in October of 2006. Mr. Basile proceeded to file an appeal with the State Board of Equalization which was received on November 8, 2006.

The administrative judge finds that the Assessment Appeals Commission has found reasonable cause in similar factual situations. Although the assessment change notices in those appeals were properly sent to the owner of record pursuant to Tenn. Code Ann. § 67-5-508, the Commission reasoned that the post-assessment date buyer was the real party in interest. The administrative judge finds that the Commission's position was recently upheld by Chancellor Dinkins in *Metropolitan Government of Nashville and Davidson County v. Ragsdale* (Case No. 04-1811-IV, April 18, 2006) which is appended to this order for ease of reference. Pursuant to Chancellor's Dinkins' ruling, the administrative judge finds the taxpayer in this case established reasonable cause for not appealing to the Sumner County Board of Equalization.

II. Value

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

The assessor field checked subject property after initially being contacted by Mr. Basile. The field check resulted in subject property being appraised at \$525,900 for tax year 2007. Mr. Hardcastle recommended the same value for tax year 2006 and Mr. Basile

concurred. Accordingly, the administrative judge finds that subject property should be appraised at \$525,900 for tax year 2006.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:


| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$112,500 | \$413,400 | \$525,900 | \$131,475 |

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 14th day of February, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, PART IV

METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,

Petitioner,

vs.

VIVIAN & RUSS RAGSDALE

Respondents.

CASE NO. 04-1811-IV

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FILED

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CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
D.C.&M.

MEMORANDUM OPINION

In this action, Petitioner, the Metropolitan Government of Nashville and Davidson County, seeks a review of the Final Decision and Order of the State Board of Equalization Assessment Appeals Commission (the "Commission") allowing Respondents, Vivian and Russ Ragsdale (the "Ragsdales"), to appeal the 2001 reappraisal of their property to the State Board of Equalization. Petitioner contends that the Commission lacked jurisdiction to hear the appeal and that it erred in finding reasonable cause for Respondent's alleged late filing of their appeal.

I. SCOPE OF REVIEW

Judicial review of this matter is conducted pursuant to Tenn. Code Ann. § 67-5-1511 and is *de novo*. See *Richardson v. Tennessee Assessment Appeals Comm'n*, 828 S.W.2d 403 (Tenn. Ct. App. 1991). As no party has introduced additional or supplemental proof, this Court's review is limited to the administrative record.

II. FACTUAL BACKGROUND

Petitioner conducted a reassessment of property in Davidson County in 2001; the Assessor sent the requisite notice of the reappraisal of the property at issue to the record owner of the property at or about the time the property sold. The Ragsdales purchased the property on April 26, 2001, and did not receive the notice of reappraisal. In November 2001, the Ragsdales received a courtesy copy of their bill for 2001 taxes and immediately sought recourse through the County (Tr. 6) and to the State Board of Equalization (Rec. 24-27).

The Administrative Law Judge assigned to the case held that the Ragsdales had failed to show reasonable cause for not adhering to the statutory deadlines for appealing to the State board. (Rec. 19-20). On appeal, the Assessment Appeals Commission reversed the Administrative Law Judge's decision, determining that reasonable cause existed for the late appeal to the state Board, and remanded the case to the Board for a hearing on the merits of the Ragsdales' claim. (Rec. 7-8). Agreement was subsequently reached between Petitioner and the Ragsdales on an assessment for their property. (Rec. 2-3).

III. DISCUSSION

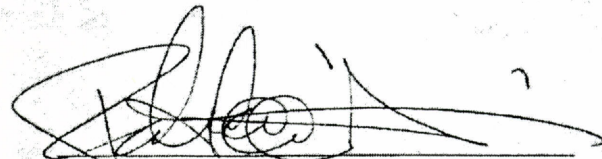
Tenn. Code Ann. § 67-5-1412(e) provides for certain time limits for filing an appeal to the State Board of Equalization and states in pertinent part: "If notice [of the assessment pursuant to Tenn. Code Ann. § 67-5-508] was not sent, the taxpayer may appeal directly to the state board at any time within forty-five (45) days after the tax billing date for the assessment." *Id.* The statute goes further to grant the taxpayer the right to a hearing to show reasonable cause for failing to file a timely appeal. The "tax billing date for the assessment" is not defined in the statute.

The custom and practice is for the Assessor to send the change of appraisal notice to the owner of record as of January 1; the assessment notice in this case was sent to the former owner on April 17th. (Tr. 11). At the time the property sold, 2001 taxes were not due and payable, and the first notice the Ragsdales received that their property had been reassessed was a courtesy tax bill sent to them in November of 2001. (Tr. 8). The original tax bill was sent to the mortgage lender in October 2001.¹

Taking the record as a whole the Court finds that reasonable cause within the meaning of the statute has been shown by the Ragsdales for not filing a timely appeal. The Ragsdales have shown that they did not receive notice of the reassessment and, consequently, could not have known of the necessity to appeal. Upon receiving notice, they acted promptly and in accordance with the statute.

IV. CONCLUSION

For the foregoing reasons, the judgment of the Assessment Appeals Commission will be
AFFIRMED.



RICHARD H. DINKINS
CHANCELLOR

¹ Petitioner argues that the Ragsdales' mortgage company was their agent with responsibility for taxes and, consequently, when the tax bill was sent to the mortgage company the time for filing the appeal regarding the assessment began to run. *See* Brief of Petitioner at 6-7; Exhibit A to the Brief of Petitioner. (This Exhibit was not a part of the administrative record). The designation of the mortgage company to receive the tax bill does not relieve the statutory obligation that the notice of assessment be sent to the property owner (who is also identified on exhibit A). The import of the tax bill in Tenn. Code Ann. § 67-5-1412 is only with reference to the "tax billing date." Assuming that the purpose of furnishing the bill to the mortgage company was to have the taxes paid from an escrow account set up in conjunction with the Ragsdales' purchase of the property, the mortgage company would have had no reason to question the reappraisal.

cc: Mary Ellen Knack, Esq.
Margaret O. Darby, Esq.
Vivian and Russ Ragsdale

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AT THE ABOVE ADDRESSES

DATE 4/18/06 CLERK MM